IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 208 of 2007
IN
NOTICE OF MOTION NO.50 OF 2007
IN
SUIT NO.3493 OF 2006

Abdul Kadar Yadli Shaikh .. Appellant
versus
Tapas Kumas Das .. Respondent

...

Mr.H.R. Sharma for the appellant.

Mr.R.R. Sharma for the respondent.

CORAM : R.M.S. KHANDEPARKAR
AND D.G.KARNIK, JJ

DATED : 9th April 2007.

P.C.:

1. The appellant challenges the order dated 18th January 2007 in Notice of Motion no.60 of 2007. By the impugned order, the learned Single Judge has granted the relief in the nature of temporary injunction on the basis of statement made on behalf of the respondent. However, the learned Judge has rejected the prayer for appointment of court

receiver. Undisputedly, the appellant was dispossessed from the suit premises on 16th July 1988. There is absolutely nothing on record to explain the latches on the part of the appellant in approaching the court to get the receiver appointed in the suit premises. On this ground itself, the application for appointment of court receiver was liable to be rejected. That apart, once the appellant is not in possession since July 1988 and the matter is regarding the rights of the parties is held to be adjudicated upon by the court and in view of the fact that the appellant was interested if any, in the property has been protected by grant of relief, the question of appointment of receiver in relation to suit premises does not arise.

2. Admittedly, suit premises are in possession of the respondent since 1988. In the circumstances, there is no case made out for interference in the impugned order. Appeal therefore is summarily rejected.

(R.M.S. KHANDEPARKAR, J)

(D.G. KARNIK, J)